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ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

AHNOH JAY BARNEY,

Defendant.

CR 18-61-BLG-DLC

OFFER OF PROOF

The United States of America, represented by Assistant United States Attorney Colin M. Rubich, files its offer of proof in anticipation of the change of plea hearing set in this case on August 23, 2018.

THE CHARGE

The defendant, Ahnoh Jay Barney, is charged by indictment with two counts of assault with a dangerous weapon, in violation of 18 U.S.C. §§ 1153(a) and 113(a)(3) (Counts I and III) and two counts of assault resulting in substantial bodily injury to a dating partner, in violation of 18 U.S.C. §§ 1153(a) and 113(a)(7) (Counts II and IV).

PLEA AGREEMENT

There a plea agreement in this case. Barney will plead guilty to Count I, assault with a dangerous weapon, in violation of 18 U.S.C. §§ 1153(a) and 113(a)(3). At the time of sentencing, the United States will move to dismiss Counts II, III, and IV, if the Court accepts the plea agreement. In the government's view, the plea agreement filed with the Court represents the most favorable offer made to the defendant. *See Missouri v. Frye*, 566 U.S. 134 (2012).

ELEMENTS OF THE CHARGE

In order for Barney to be found guilty of Count I, assault with a dangerous weapon, in violation of 18 U.S.C. §§ 1153(a) and 113(a)(3), the United States must prove each of the following elements beyond a reasonable doubt:

First, the defendant is an Indian person;

Second, the crime occurred within the exterior boundaries of the Northern Cheyenne Indian Reservation;

Third, the defendant acted with the intent to do bodily harm to E.W.; and

Fourth, the defendant used a dangerous weapon, to wit, a knife.

PENALTY

Count I carries a maximum penalty of ten years imprisonment, a \$250,000 fine, three years of supervised release, and a \$100 special assessment.

ANTICIPATED EVIDENCE

If this case were tried in United States District Court, the United States would prove the following:

On November 10, 2017, the defendant, Ahnoh Barney, and E.W., his romantic partner, were drinking vodka at Barney's parents' trailer. The trailer is located on Birney Divide, which is within the exterior boundaries of the Northern Cheyenne Indian Reservation. Barney became angry with E.W., accusing her of infidelity. Barney kicked and punched E.W. and stabbed her in the leg with a knife. E.W. sustained a stab wound in her leg for which she received treatment at the IHS clinic in Lame Deer. While being examined at IHS, medical professionals found evidence that E.W. had also been stabbed in the arm and back sometime in the days before being stabbed in the leg. E.W. stated that Barney also caused these injuries.

DATED this 21st day of August, 2018.

KURT G. ALME
United States Attorney

/s/ Colin M. Rubich
COLIN M. RUBICH
Assistant U.S. Attorney